



General Assembly

January Session, 2019

Amendment

LCO No. 9426



Offered by:

REP. PORTER, 94th Dist.
SEN. KUSHNER, 24th Dist.
REP. JOHNSON, 49th Dist.

REP. CURREY, 11th Dist.
REP. WINKLER, 56th Dist.
REP. ARNONE, 58th Dist.

To: House Bill No. 6916

File No. 475

Cal. No. 300

***"AN ACT EXPANDING REMEDIES AND POTENTIAL LIABILITY
FOR UNREASONABLY CONTESTED OR DELAYED WORKERS'
COMPENSATION CLAIMS."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (*Effective from passage*) (a) There is established a task force
4 to (1) identify the extent of unreasonably contested or delayed
5 workers' compensation claims, (2) study methods to expand remedies
6 regarding potential liability for unreasonably contested or delayed
7 workers' compensation claims, and (3) clarify the law regarding bad
8 faith handling of workers' compensation claims. Such study shall
9 include, but need not be limited to, an examination of: (A) How such
10 claims are handled when an injured worker is covered by employee
11 benefit health insurance, (B) whether an employee benefit plan should
12 make payments during the time period the Workers' Compensation
13 Commission takes to determine whether the worker's injury is work

14 related, (C) how claims are handled when an injured worker's
15 employer does not provide an employee benefit health insurance plan,
16 (D) the Workers' Compensation Commissioner's authority to fine an
17 insurance company for unreasonably contested claims or undue delay,
18 particularly when such undue delay may cause permanent injury to an
19 employee, (E) delays caused by the failure of medical professionals to
20 follow the Professional Guide for Attorneys, Physicians and Other
21 Health Care Practitioners Guidelines for Cooperation, or to provide
22 respondents with a complete and accurate medical history, including,
23 but not limited to, all relevant medical records requested, (F) whether
24 benefits are paid to injured workers or on behalf of injured workers
25 without prejudice during a period of contest, and the frequency with
26 which (i) said benefits are reimbursed in cases in which the underlying
27 injury is deemed not compensable, (ii) the treatment paid for without
28 prejudice is deemed unreasonable or unnecessary, or (iii) indemnity
29 was paid during a period of time in which the injured worker is
30 deemed to have been capable of working and work was available, (G)
31 remedies when an undue delay in payment causes unnecessarily long
32 delays in medical treatment, resulting in loss of employment, (H) types
33 of systems that may be created to obtain data regarding reasonable
34 treatment and recovery timeframes, and (I) best methods to prevent
35 unfair claim-handling practices that violate the Connecticut Unfair
36 Insurance Practices Act, as amended from time to time, including, but
37 not limited to, the following:

38 (i) Misrepresenting pertinent facts or insurance policy provisions
39 relating to coverages at issue; (ii) failing to acknowledge and act with
40 reasonable promptness upon communications with respect to claims
41 arising out of and in the course of employment under insurance
42 policies and third-party administration contracts; (iii) failing to adopt
43 and implement reasonable standards for the prompt investigation of
44 claims arising out of and in the course of employment to which such
45 insurance policies and third-party administration contracts shall
46 respond; (iv) refusing to pay benefits without conducting a reasonable
47 and timely investigation based upon all available information; (v)

48 failing to affirm or deny coverage of benefits within a reasonable time
49 after submission of a request for such benefits has been submitted; (vi)
50 not attempting in good faith to effectuate prompt, fair and equitable
51 provision of benefits for claims in which liability has become
52 reasonably clear; (vii) attempting to settle claims on the basis of an
53 application that was altered without notice to or knowledge or consent
54 of the insured; (viii) making known to beneficiaries of such insurance
55 policies or third-party contracts of administration pursuant to this
56 section a policy of appealing from decisions of a workers'
57 compensation commissioner or administrative law judge in favor of
58 such beneficiaries for the purpose of compelling the acceptance of
59 settlements or compromises in an amount less than the amount
60 awarded in decisions; (ix) delaying the investigation or payment of
61 claims by requiring a beneficiary or health care provider to submit a
62 preliminary claim report and then requiring the subsequent
63 submission of formal proof-of-loss forms, both of which submissions
64 contain substantially the same information; or (x) failing to promptly
65 provide a reasonable written explanation for the denial of a claim or
66 for an offer of a compromise and settlement in relation to the facts or
67 applicable law.

68 (b) The task force shall consist of the following members:

69 (1) Two appointed by the speaker of the House of Representatives,
70 one of whom is an attorney and a member of the Connecticut Trial
71 Lawyers Association, who has experience in workers' compensation
72 cases, and one of whom is an attorney and a member of the
73 Connecticut Defense Lawyers Association, who primarily represents
74 respondents in workers' compensation cases;

75 (2) Two appointed by the president pro tempore of the Senate, one
76 of whom is a representative of physicians who treat workers'
77 compensation claims patients and one of whom is a physician who
78 performs respondents' medical examinations in workers'
79 compensation cases;

80 (3) Two appointed by the majority leader of the House of
81 Representatives, one of whom shall be a member of the General
82 Assembly, and one of whom is an injured worker;

83 (4) Two appointed by the majority leader of the Senate, one of
84 whom shall be a member of the Workers' Compensation Legal
85 Advisory Panel or the Workers' Compensation Medical Advisory
86 Panel, whomever of which is available for any scheduled meeting, and
87 one of whom is a member of the Connecticut State Medical Society;

88 (5) Two appointed by the minority leader of the House of
89 Representatives, one of whom shall be a representative of the business
90 community, and one of whom is an injured worker;

91 (6) Two appointed by the minority leader of the Senate, one of
92 whom shall represent a workers' compensation insurance carrier and
93 one of whom shall be a representative of industry;

94 (7) The chairperson of the Workers' Compensation Commission, or
95 the chairperson's designee;

96 (8) The Insurance Commissioner, or the commissioner's designee;

97 (9) The Commissioner of Social Services, or the commissioner's
98 designee; and

99 (10) The Commissioner of Administrative Services, or the
100 commissioner's designee;

101 (c) Any member of the task force appointed under subdivision (1),
102 (2), (5) or (6) of subsection (b) of this section may be a member of the
103 General Assembly.

104 (d) All appointments to the task force shall be made not later than
105 August 1, 2019. Any vacancy shall be filled by the appointing
106 authority.

107 (e) The speaker of the House of Representatives and the president

108 pro tempore of the Senate shall select the chairpersons of the task force
109 from among the members of the task force. Such chairpersons shall
110 schedule the first meeting of the task force, which shall be held not
111 later than sixty days after the effective date of this section.

112 (f) The administrative staff of the joint standing committee of the
113 General Assembly having cognizance of matters relating to labor shall
114 serve as administrative staff of the task force.

115 (g) Not later than January 1, 2020, the task force shall submit a
116 report on its findings and recommendations to the joint standing
117 committee of the General Assembly having cognizance of matters
118 relating to labor, in accordance with the provisions of section 11-4a of
119 the general statutes. The task force shall terminate on the date that it
120 submits such report or January 1, 2020, whichever is later."

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | New section |